

DEPARTMENT OF SOCIAL SERVICES  
744 P Street, Sacramento, CA 95814



October 2, 1989

ALL-COUNTY LETTER NO. 89-83

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: RECLASSIFICATION OF REFUGEE MINORS TO UNACCOMPANIED MINOR STATUS

REFERENCE: ALL-COUNTY LETTER NO. 89-45

SUPERSEDES: ALL-COUNTY INFORMATION NOTICE 1-21-88

The Office of Refugee Resettlement has notified us of the protocol for conversion of minor refugees from "accompanied" to "unaccompanied" minor status. Please review the attached.

The reclassification request and ORR-3 form must be submitted to:

Mr. Frank Rondas, Chief  
Refugee Programs Policy  
and Systems Bureau  
744 P Street, MS 5-610  
Sacramento, CA 95814

Counties will be notified of ORR approval of their requests when such approval is received by DSS.

If you have any questions regarding the instructions contained in this letter, please contact Christy Duffek at (916) 322-3141.

A handwritten signature in dark ink, appearing to read "Robert A. Horel", is written over the typed name.

ROBERT A. HOREL  
Deputy Director  
Welfare Program Division

Enclosures

cc: Dr. Sharon Fujii  
CWDA

PROTOCOL FOR CONVERSION OF MINOR REFUGEES  
FROM "ACCOMPANIED" TO "UNACCOMPANIED" STATUS

Background

45 CFR Part 400, Subpart H, "Child Welfare Services," Section 400.111 provides for the Director of ORR, subsequent to April 30, 1986, to approve the classification of a child, previously classified as "accompanied," as "unaccompanied" on the basis of information provided by a State showing that such child should have been classified as "unaccompanied" at the time of entry. Children entering unaccompanied minor refugee or entrant status subsequent to that date must have been classified as unaccompanied, requiring foster care (P-4) by INS at the time of entry or have been reclassified by the Director, ORR, pursuant to the following protocol in order to qualify for unaccompanied minor status pursuant to Subpart H.

Policy

Policy for reclassification is contained in ORR Regional Letter 85-184 (attached).

Protocol

The Director of ORR will use the following protocol subsequent to the date of this issuance in determining if a child, heretofore classified as "accompanied," was improperly classified and should be reclassified as "unaccompanied."

A State wishing to effect the change to "unaccompanied" status of a child should submit the following to the ORR Director, with a copy to the appropriate Regional Administrator, FSA:

1. An ORR-3 Placement Report (OMB No. 0960-0309) for the child, setting forth the information requested therein. If portions of the action are pending, this should be so indicated in the appropriate section.
2. If misclassification occurred because of a clerical error, an explanation of the nature of the error and the circumstances surrounding that error with accompanying documents, where appropriate.



Office of Refugee Resettlement  
Washington, D.C. 20201

ORR REGIONAL LETTER

Unaccompanied Minors -- ACTION/EXTERNAL

Transmittal No. 85-184

Originating Component -- DPA-P  
August 23, 1985

SUBJECT: Unaccompanied Minors: Defining; Termination of Status;  
Amerasians

Please share with the States in your Region the following information which was developed in response to questions raised by States:

Defining a Child as Unaccompanied

The following is the correct approach to defining a child as "accompanied" or "unaccompanied":

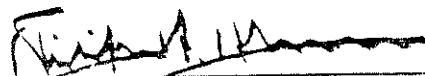
1. A minor is considered to be accompanied unless he or she has been identified as an unaccompanied minor requiring foster care upon arrival in the United States, as evidenced on Voluntary Agency Form 1 indicating assurance of sponsorship by an agency providing such care.
2. A minor who is considered to be accompanied may be reclassified as an unaccompanied minor only under the following circumstances and only on a case-by-case basis:
  - a. Based on information provided by a State, the Director of ORR determines that the absence of a Voluntary Agency Form 1 designating the child as an unaccompanied minor is the result of a clerical error.
  - b. In every other instance, an accompanied minor may be reclassified as an unaccompanied minor only if all of the following conditions are met:
    - (1) The child does not have, and has not had at any time since the child's arrival in the United States, a parent living in the United States;
    - (2) A non-parental relative or non-related adult has never had legal custody of the child in the United States;

3. If misclassification occurred for any other reason:

- a. A formal request for reclassification.
- b. A narrative explanation of the circumstances under which the State believes the child to be "unaccompanied."
- c. Assurance that the minor does not have, and has not had at any time since his or her arrival in the United States, a parent living in the United States. Whereabouts of the natural parents should be specified if known.
- d. Assurance that a non-parental relative or non-related adult has never had legal responsibility for the child in the United States. The name of the adult person with whom the minor entered the United States, or whom the minor entered the United States to join, should be supplied.
- e. Assurance that the child is not living in the home of the non-parental or non-related adult with whom he or she entered the United States, or the non-parental relative or other non-parental adult whom he or she entered the United States to join.
- f. Evidence that an appropriate court has placed legal responsibility for the child with the State or local public child welfare agency or with a licensed non-public agency which is under contract with the State to provide services to minor entrants and/or refugees.

4. The Regional Administrator, FSA, should submit a recommendation on the request to the Director, ORR.

5. Based on information presented by the State, recommendation of the Regional Administrator, FSA, and any supplemental information obtained, the Director, ORR, will make a determination on the State request, and will notify the State and the appropriate Regional Administrator, FSA, of his determination.



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Philip A. Holman  
Acting Director  
Office of Refugee Resettlement

- (3) With respect to a child who entered the United States accompanied by a non-parental relative or non-related adult, or who entered the United States for the purpose of joining a non-parental relative or non-related adult, the child is not living in the home of such relative or adult;
- (4) An appropriate court has placed legal responsibility for the child with the State or local public child welfare agency or with a licensed non-public agency which is under contract with the State to provide services to refugee or Cuban/Haitian entrant unaccompanied minors, thereby establishing the child as an unaccompanied minor; and
- (5) The State has reported the child to ORR as an unaccompanied minor and as part of the official State program for unaccompanied minors, and the State meets all other programmatic and reporting requirements of SSA-AT-79-04 (for refugees), ORR-AT-80-7 (for Cuban/Haitian entrants), and ORR-AT-84-1 (for both refugees and entrants), including the development and submittal of a written case plan for the child.

#### Termination of Unaccompanied Status

##### Question:

At what point is unaccompanied minor (UM) status terminated when a parent or legal guardian is found residing in the United States? Of all the possibilities (upon notification that a relative had been found, at the point of verification of family status, upon completion of reunification plan) it appears most reasonable to terminate UM status as of the date the court redetermines legal responsibility for the child based on the new circumstances -- i.e., presence of a parent or non-parental relative.

##### Response:

We believe that it would be reasonable to terminate UM status: (a) up to 90 days after the date of the arrival of the parent in the United States, or (b) up to 90 days after the agency has knowledge of a legally responsible non-parental adult relative, or other legal guardian, residing in the United States.

Amerasian Children

Question:

Can Amerasian children be considered UMs -- i.e., does the new UM definition apply to the Amerasian children also?

Response:

ORR does not differentiate between so-called "Amerasian" and other persons entering the United States as refugees from Southeast Asia. To be eligible for unaccompanied minor status, an Amerasian child must meet the same criteria as other children:

- a. Hold refugee status;
- b. Conform to the definition of unaccompanied minor as set forth in ORR policy issuances, including this policy interpretation; and
- c. Be under 18 years of age or such higher age as the State's title IV-B plan prescribes for the availability of child welfare services to any other child in the State.

Amerasians who enter as immigrants or citizens, or as members of a family group which includes their mother, are thus not eligible for unaccompanied minor status.



Philip A. Holman  
Director  
Division of Policy and Analysis